

June 9, 2010

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TOWN OF NEW WINDSOR

PLANNING BOARD

JUNE 9, 2010

MEMBERS PRESENT: JERRY ARGENIO, CHAIRMAN  
NEIL SCHLESINGER  
HOWARD BROWN  
DANIEL GALLAGHER

ALTERNATE: HARRY FERGUSON

ALSO PRESENT: JOHN SZAROWSKI, P.E.  
PLANNING BOARD ENGINEER

JENNIFER GALLAGHER  
BUILDING INSPECTOR

NICOLE JULIAN  
PLANNING BOARD SECRETARY

DOMINIC CORDISCO, ESQ.  
PLANNING BOARD ATTORNEY

ABSENT: HENRY VAN LEEUWEN  
HENRY SCHEIBLE

REGULAR MEETING

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MR. ARGENIO: I'd like to, as such, I'm going to call

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the June 9 regular meeting of the Town of New Windsor Planning Board to order. Everybody please stand for the Pledge of Allegiance.

(Whereupon, the Pledge of Allegiance was recited.)

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ANNUAL\_MOBILE\_HOME\_PARK\_REVIEW:

HUDSON\_VIEW\_PARK

MR. ARGENIO: First on tonight's agenda is Hudson View Park Mobile Home Park. Are you here to represent this?

MR. ADAMS: Yes, good evening, my name is John Adams, I'm an attorney in Poughkeepsie, New York. I'm here representing the owners of Hudson View.

MR. ARGENIO: You're obviously here for a reason.

MR. ADAMS: Yes, I'm here requesting that the board renew the permit that has been issued to Hudson View to permit its continuing operation for another I believe it's either six months or 12 months until the board again reviews our application. I gave you a status report at your last meeting when we met in November, there's been much activity which has taken place since that date in cooperation with both the building inspector and the fire inspector. We have obtained additional building permits, we have had an engineer review the site for the benefit of the building inspector, we have responded to violation notices of the fire inspector. And in my conversation with them while I can't put words in their mouth, I believe they are satisfied with the progress that has been made to date. We anticipate fully complying with their requirements hopefully within the next 6 to 12 months. The building permits do have a period of 12 months but obviously we'd prefer to accelerate that to the extent possible to complete that work well within the period of the building permits rather than waiting for the full duration of time.

MR. ARGENIO: Are you done?

MR. ADAMS: Yes.

MR. ARGENIO: I want to hear from you, Jennifer, in a moment. In the meantime, for the benefit of the members, I'm going to just read a bit here from the violation notice from the fire inspector, remove rubbish from the park, it's observed between most homes and behind the homes on hill behind the park. Obviously you're planning--

MR. ADAMS: Most of that has been removed.

MR. ARGENIO: Let me finish, you spoke, I'll give you a chance in a few moments, planning takes time. Also note homes 22 and 23 seem to be doing renovation and are dumping debris down the hill behind the homes. Fantastic. Accessory structures, blah, blah, blah. The fence on the south side of the park is knocked down. Well, that happens. Repair screens. That happens. I'm more concerned about the first two items.

MR. ADAMS: Most of--

MR. ARGENIO: Let me finish. I want to go through this, I'll give you a chance, I promise, I give you my word. Unit 19 has multiple unlicensed vehicles around the building. Oh, I'm sorry, thank you, Nicole, that's been corrected. I'm not even going to mention it if it's been corrected, I'm not even going to mention it. What's this in addition to no, that's the same thing so yeah, stairs are missing, yeah, you need stairs. The fence on the south side of the park has been repaired, that's good. I assume Jennifer that that's of late meaning in the past few weeks?

MS. GALLAGHER: That's of today.

MR. ARGENIO: Oh, as of today, obviously, cause of his appearance tonight. Uninsured vehicles, is that of today as of late?

MS. GALLAGHER: If it's highlighted as repaired then it

is, I don't see it.

MR. ARGENIO: Yeah, the vehicles have been removed it says and it says repaired nine of, 6/9 of 10, does that mean it was repaired today or that's the date of the comment?

MS. GALLAGHER: When we went out, they have been removed from the property.

MR. ARGENIO: That's your observation as of today?

MS. GALLAGHER: Correct.

MR. ARGENIO: You can speak.

MR. ADAMS: Yeah, I simply echo what I said, I spoke to Ken Schermerhorn today to check on the status of activity ascertain his satisfying or absence of satisfaction. He seemed to be largely satisfied, in fact, even expressed a view that we may have gone further than he would have anticipated.

MR. ARGENIO: Is that the case Jennifer?

MS. GALLAGHER: Since November it has been moving very slowly to rectify all the situations. They did get all their building permits, however, none of them have been closed with C.O.s. As far as all the rubbish and everything, Ken did let me know that they have started taking out tons and tons of rubbish and garbage.

MR. ARGENIO: What about dumping the debris down the bank?

MS. GALLAGHER: They have been sending the guys down the bank to get stuff that they threw over and bring it back up and get rid of it so they have been cleaning up that situation.

MR. ARGENIO: Okay, Jen, as far as you're aware, is there any, how do I say this, imminent danger of a structure collapse that would kill anybody or mortally wound them? Did Ken say anything about that?

MS. GALLAGHER: No, but we have two concerns about two mobile homes that are hanging over an embankment that we have issued building permits for.

MR. ARGENIO: For the repair of those structures?

MS. GALLAGHER: Correct, nothing has been done on that, they have brought in an engineer's report to us that said that they could shore them up. Our engineer Richard McGoey thought that they should be condemned, however, he allowed their engineer to send something in to see if it, if he agreed, obviously, he didn't, he said that they could be, they shouldn't be condemned, that they could be repaired.

MR. ARGENIO: Counselor, I do not like seeing, we do not like seeing an attorney representing a trailer park on a matter as simple as a renewal of their permit to operate. And this is not the first time you've been here which tells me that there's issues there that while you may be addressing them or your client may be addressing them they're most certainly ongoing, certainly ongoing. I hope you agree with on that so I'm going to speak to the board. Here are my thoughts and I want to hear from you guys. No, I don't think that you are, I don't think you should have your permit renewed. I don't think that and what I do think is that you should be given or your client should be afforded an opportunity as they have been your client has been afforded an opportunity, ample opportunity over the past how many months?

MS. GALLAGHER: It's been since last June, July.

MR. ADAMS: November is the letter you sent me.

MR. ARGENIO: So almost a year to rectify what they need to rectify, it's not rectified. I appreciate the fact that you're moving it forward. The biggest concern I think at least in my mind is the trailers hanging off the cliff, I have not looked at them, I only have to go by what Jennifer said.

MR. ADAMS: I spoke this afternoon when I first became aware of this with the engineer that we had previously retained to do the inspection generally and I'm going to ask him to refocus on that but I personally wasn't aware of that until today.

MR. ARGENIO: And you have building permits to repair them?

MR. ADAMS: Yes, we have permits I think.

MS. GALLAGHER: Yes, they do.

MR. ARGENIO: Here's what I'm going to suggest to you guys and if somebody wants to go in a different direction I'm all ears. I'm going to suggest that you remedy the balance of this violation listed.

MR. ADAMS: Do you have a date on the document you're waving at me?

MR. ARGENIO: I have a date.

MR. ADAMS: I just want--

MR. ARGENIO: I'm not waving it at you, I just held it up. The date on the document that I held up that's in my hand is June 9. I'm going to suggest that you remedy the balance of the issues on there which don't seem to be substantial and you continue to diligently work under these building permits that you, I mean your client, obviously your client to continue to work under

these building permits to remedy the issues relative to the trailers that are hanging off the hill or the precipice. I don't know what the appropriate word is. But I think and again I want to hear from you guys, meaning the members for the record that you need to address this list. If you address this list we'll give you a renewal subject to your continuing to diligently pursue these building permits that we just discussed. Neil or Howard, you guys have anything?

MR. SCHLESINGER: Question for Jen. There are people living in the two trailers that we're questioning?

MR. ADAMS: I think so.

MS. GALLAGHER: Yes.

MR. SCHLESINGER: There are people living there, building permit and structure same thing, in other words, building permit to me is to repair or renovate, structure is hanging off the cliff, same issue or different issues?

MS. GALLAGHER: It's the same issue, we gave them a building permit, I'm not sure of the date to repair these issues. Like I said, Richard McGoey said that it should be condemned. Their engineer said that it could be shored up and it's not in danger of falling off the cliff.

MR. SCHLESINGER: We have a dangerous situation.

MR. ARGENIO: But Neil, the important thing is there's a licensed professional on the other side saying that it can be fixed and there's no imminent safety, health and welfare danger, that's the important aspect.

MR. SCHLESINGER: As long as the engineer's willing to stand by his, he's a professional but listen, things about cleaning up that should be done tomorrow and I



mean tomorrow.

MR. ADAMS: I will be to the site this week and make specific recommendations.

MR. ARGENIO: Howard, you're all right with this?

MR. BROWN: If it's on a timetable for this to be done.

MR. ARGENIO: Yes, I'd like to have it done before the next meeting. Are you okay with that?

MR. ADAMS: I have to get back to you, I fully appreciate the dimension of the work.

MR. ARGENIO: We're going to call it 30 days, that's what we're going to say.

MR. ADAMS: If I have any problem, I'll communicate immediately.

MR. ARGENIO: It's 30 days. Danny?

MR. GALLAGHER: Do you know if anybody is living in unit 28 the one that says there's no stairs to the entrance to the unit? How are they getting in the unit? Do you know if there's no front entrance?

MR. ADAMS: I couldn't answer that question.

MS. GALLAGHER: I believe there's a second entrance.

MR. ARGENIO: And that would fall, yeah, I mean, that's part of the June 9 package.

MR. ADAMS: There are two or three violation notices issued on the same day.

MR. ARGENIO: Please, I'm begging you, this has been going on, on, on, let's remedy these things and we'll

reissue the permit within 30 days, please contact Nicole, we'll put you on the agenda and then work on the other thing and get it done.

MR. ADAMS: Understood.

MR. ARGENIO: Thank you for appearing tonight.

MR. CORDISCO: Just so the record is clear, the next meeting is July 14, I believe.

MR. ARGENIO: Counselor, Dominic, go ahead some.

MR. CORDISCO: Next meeting is July 14, we only have one meeting in July.

MR. ADAMS: I hope it's later rather than sooner.

MR. ARGENIO: Yeah, it's the 14th so you have more than 30 days.

MR. CORDISCO: You have an extra five days.

PARADISE\_MOBILE\_HOME\_PARK

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MR. ARGENIO: Paradise Mobile Home Park. Anybody here for that?

Mr. Ken Mannix appeared before the board for this review.

MR. ARGENIO: Jen, what say you about this facility?

MS. GALLAGHER: We have been out there and it's fine.

MR. ARGENIO: Come up and give me a kiss.

MR. MANNIX: No.

MR. ARGENIO: Do you have a check made in favor of the Town of New Windsor for \$275?

MR. MANNIX: Yes, I do.

MR. ARGENIO: Accept a motion we renew the permit.

MR. GALLAGHER: So moved.

MR. SCHLESINGER: Second it.

MR. ARGENIO: Motion has been made and seconded. Roll call.

ROLL CALL

MR. SCHLESINGER      AYE

MR. BROWN            AYE

MR. GALLAGHER        AYE

MR. ARGENIO          AYE

MR. ARGENIO: They all should be this simple, thank you, sir, for keeping our town neat and appropriate.

PUBLIC\_HEARINGS:

IRISH\_EYES\_DECK\_SITE\_PLAN\_(10-15)

MR. ARGENIO: Next is Irish Eyes deck site plan represented by Mr. Rosenblum and Mrs. or Miss Sabini.

MR. ARGENIO: Marshall, as I recall, there really were not a lot of technical issues that we were wrestling with here. This is a very, very simple deck on this restaurant and I mean--

MR. ROSENBLUM: The issues that were brought up by Mark Edsall and I had the opportunity to review the written comments prior were for the as discussed the enclosure, dumpster enclosure and the transfer of the separate parking plan onto this plan in the striped and available spaces.

MR. ARGENIO: For the benefit of the members, the reason you guys don't see that on there is because Mark is off and has been off for a week and Mr. Rosenblum made the plan corrections within the appropriate timeframe but they got to Mark and they didn't get to us because Mark is on holiday. So I would ask that the members--

MS. SABINI: I have an extra.

MR. ARGENIO: It's okay, excuse me, I ask that the members look at the plan on the easel and if there's any questions, Jane can give you a more a plan so you can look at it a little closer. But as I remember, they were similar issues. Go ahead, Marshall.

MR. ROSENBLUM: Essentially--

MR. ARGENIO: You don't have your pointer tonight?

MR. ROSENBLUM: Actually, I do, I was saving it.

MR. ARGENIO: I would be disappointed if you didn't.

MR. ROSENBLUM: We have a simple enclosure, the dumpster enclosure details are, it's effectively 11 feet by 13 feet constructed out of steel pipe much like a chain link structure but with a slat frame similar materials to the deck six foot high. The other change is the indication of the balance of the parking spaces.

MR. ARGENIO: Does anybody have any questions? We'll open it up to the public in a few minutes, the members only right now, I should have been clear, I'm sorry. On the 21st day of May, 2010, Nicole compared 12 addressed envelopes containing the notice of public hearing for the application that she got from the assessor's office. They were mailed out. At this point in time, I would like to open to the public and please, if you want to comment, just raise your hand, you'll be recognized, stand up and come forward. Your name for the benefit of the stenographer and we certainly would like to hear what you have to say?

MS. CONKLIN: My name is Catherine Conklin, I live on 9 Lafayette Drive. I live right behind the Irish Eyes. That is the worst place, you can check the police department how many times the police are down there. When the other owner had it Valicenti's, we had no problem. There was an older crowd, they were quiet. These are a bunch of young kids, they come outside, the music is loud. I gotta get up at 3:30 in the morning and I work weekends. I have to call the police after 11 just to get some sleep.

MR. ARGENIO: Ma'am, you don't have to yell at us.

MS. CONKLIN: I don't know what else to do, I've called these people and have talked to them, they don't register nothing in their brain. They get out there and when kids are out there playing during the day

they're using foul language, I can hear it all the way down to my house.

MR. ARGENIO: Jane, and again, this is not a discussion between you and the lady.

MS. CONKLIN: Of course not.

MR. ARGENIO: The kind lady. What kids are playing?

MS. SABINI: Irish Eyes has police calls nil to none and I'm sure if you pulled out the record, you would see that we do not have, I haven't had any complaints from any neighbors, anybody calling me to ask me. I'm the only owner there.

MR. ARGENIO: You're there all the time, every day?

MS. SABINI: I'm there all the time and I've not had any contact with any neighbors complaining to me. And I have not had police called to come and tell me that gee, we need to be quiet ever in my seven years of operation.

MS. CONKLIN: I know I called the police and the police have been down there. Nobody in the neighborhood likes the place, you can't even find a parking space on what is it St. Patrick's Day, they're parked all over the place causing an accident.

MR. ARGENIO: That's the same as any other Irish pub within the Orange County area.

MS. CONKLIN: You can fit so many people in the place and with many cars that are there that place is overcrowded. You know, nobody wants to listen to the people that live there. The problem is they don't know how to be quiet, they get outside and they're screaming and yelling at 11 o'clock at night. And when you've got to get up 3:30 in the morning and you can't have

your windows open, you have to call the police, it's very annoying.

MR. ARGENIO: Understood.

MS. CONKLIN: Now they're going to put the deck where there are going to be people yelling and screaming again.

MR. ARGENIO: Anything else, ma'am?

MS. CONKLIN: No.

MR. ARGENIO: Would anybody else, I'm sorry, ma'am, I didn't mean to cut you off, did you have another comment?

MS. CONKLIN: I don't see how the people can get away with these things, it's a neighborhood place. When I first bought my house, it was a very quiet area and since that place moved in it's ridiculous and there's no way nobody going to tell me that there's no police record. I know, I've called the police many times.

MR. ARGENIO: Do you have any of those records with you this evening?

MS. CONKLIN: No, no.

MR. ARGENIO: Okay, anybody else have anything? Yes, sir, come forward please. Your name?

MR. MORIELLO: My name is Dan Moriello, 53 Lafayette Drive. I've been at the establishment, I've eaten in there and the noise issue when I purchased my house 10 years ago there was a smoke issue, you know, I'm sure they went inside, they were able to smoke in the bar. Now that there's a smoke law, things have changed, they do come out, they do come out, people that eat in the restaurant.

MS. SABINI: Patrons.

MR. MANNIX: Patrons, they go outside to smoke, understandable, it does get loud and sometimes there are some nights where we have to lower, shut our windows on a warm evening or something like that, it does get a little annoying. I've never personally made any phone calls and St. Patrick's Day I understand St. Patrick's Day. What I was curious was is there, I never looked into this myself, is there a decimal range of so many feet off the property, a noise level at certain hours that there's something to go off on?

MR. ARGENIO: Some standard?

MR. MORIELLO: Yes.

MR. ARGENIO: Jennifer?

MS. GALLAGHER: The police handle that matter.

MR. MORIELLO: Do you know what that code is?

MS. GALLAGHER: I could definitely find out for you, you can call my office tomorrow.

MR. ARGENIO: If you want to phone the building department it's 563-4618, I'm sure she can help you with that.

MR. MORIELLO: I'm voicing my opinion now that there will be a deck if it's approved to go out there it's going to be, it's no longer going to be an intermittent noise, it's going to be a constant noise, just wanted to share my opinion.

MR. ARGENIO: Thank you. Anybody else?

MR. GALLAGHER: Motion to close the public hearing.



MR. SCHLESINGER: Second it.

MR. ARGENIO: Motion has been made and seconded we close the public hearing on Irish Eyes. Roll call.

ROLL CALL

MR. SCHLESINGER	AYE
MR. BROWN	AYE
MR. GALLAGHER	AYE
MR. ARGENIO	AYE

MR. ARGENIO: Let me just make a statement that I want to ask Jane and Marshall a question then I want to, you need to understand, we need to understand, everybody needs to understand that we need to co-exist in this community and commercial operators be they bar owners or whatever business they're in, I have a business in this town or I'm partners in a business in this town, I have neighbors too. And at the end of the day, you need to understand, everybody needs to understand that people have rights. Ma'am, you have rights. Sir, you have rights. But let's not forget that Miss Sabini as a business owner has rights too and there's certain zoning requirements that run with her property. And if she wants to do this, that or the other thing to her property, to her building, expand it or not, if she does it in a lawful fashion, she has the lawful right to do that. Now, I understand the concern about the noise near the bar but you live near a bar, I mean it's like it would be like somebody saying well, I bought a house near Indian Point nuclear power plant and now I'm upset because I may be getting irradiated by radiation. Well, you live near the power plant and you should live, if that's your concern, you probably shouldn't be living there radiation or irradiation, something like that. Now that said, that doesn't mean that these concerns are unfounded, it does not mean that. It means that this board has an obligation by law to

enforce the code of the Town of New Windsor and to make sure that when people want to do things with their property they do so in conformance with the code. That said, Marshall or Jane, are there any, can you share with us any restrictions or any hours of operation of the deck? Is it possible to maybe possibly erect some kind of a, I don't know, something on the east side that might aid in some type as a noise barrier or something? I don't know, I'm thinking out of the box and I'm asking a very open ended question, either one of you?

MS. SABINI: I mean, if, really what I had more in my mind was the deck would be open for the hours of operation of the restaurant. It would be more of a lunch and dinner area for those hours. I would not put live music out there at any time.

MR. ARGENIO: I think that's a great start because live music has car crash written all over it. There are other restaurants with live music outside them and they tend to get very noisy.

MS. SABINI: I would be willing to keep that inside, I wouldn't put a band outside.

MR. ARGENIO: So as part of your approval, you agree that no live music outside and I'm going to, I think we should also attach something to that that says that I don't think you should set up a DJ out there either.

MS. SABINI: That's fine.

MR. ARGENIO: At any point in time because that would, Ma'am, what was your name?

MS. CONKLIN: Catherine Conklin.

MR. ARGENIO: That would exacerbate Mrs. Conklin's issue, we all need to be neighbors and get along and I

think that would be a good middle ground.

MS. SABINI: Can I say that I've never even met any of my neighbors confronting me with complaints.

MR. ARGENIO: It is what it is.

MS. SABINI: I do try to run a tight ship and I believe that I do.

MR. ARGENIO: I believe you do too and let the record reflect as with some of the other people here I've been there and it's certainly, I mean, I know her cause I see her there, she works her butt off, she's the only one there but that doesn't, that will not affect my decision making ability in any way, shape or form. Go ahead.

MS. SABINI: That's really all I have to say. I would just really like to be able to use deck for the hours that the restaurant is open.

MR. ARGENIO: What about the evening, what's going on in the evening?

MS. SABINI: You know what, people do like to sit outside and have a drink.

MR. ARGENIO: Drinks and appetizers.

MS. SABINI: Yeah, absolutely, that's a big feature point, that's something that I was really looking to build my business with people in the nice weather love to be outside weather permitting and that was a big focus of this deck. So that's important to me.

MR. ARGENIO: Marshall, do you have anything else to add?

MR. ROSENBLUM: We had discussed at the last meeting

just prior to that putting up a more solid fence along the side but that would not only seem confining and block any breeze that might come through on a warm evening.

MR. ARGENIO: Do you guys have anything, any thoughts? I have one additional thought. So part of this approval will be no live music, no DJs out there. If the noise complaints become chronic, we're going to ask you to do something, Jane, and something is probably going to be relegated to some type of fence or barrier on the east side of that deck, something reasonable and equitable, not to enclose the deck, not to tear it down but something to put up that will help to mitigate the noise. But I think for now, I don't think there's anything unreasonable going on here. And what she's doing again and you guys probably know this is that she's trying to I'm sure of it, I'm not a restaurateur but she's trying to compete with Cena 2000, The River Grill and all the restaurants at the river as Neil does every day and/or every weekend to try to keep the money people are spending in New Windsor, that helps our tax base. So, you know, we need to be not, we the planning board needs not to be obstructionists to that end cause we all live here and when businesses don't operate they're our best form of tax revenue and when they don't operate and they leave the town cause they can't compete with the riverfront or whatever else everybody's taxes goes up and that's a bummer for everybody. I'm sorry, ma'am, we closed the public hearing. And I say that not to be mean or anything else by law when it's closed it's closed.

MS. CONKLIN: I just wanted to mention that I never met this lady when they opened up, a man came down and told me he owned it.

MR. ARGENIO: Anything else?

MR. GALLAGHER: No.

MR. ARGENIO: Everything's been addressed, I'd think we have arrived at what I hear from county they've said local determination, we'll need a bond estimate, oh, is SEQRA done, have we done SEQRA?

MR. CORDISCO: Not yet.

MR. ARGENIO: I'll accept a motion that we declare negative dec under the SEQRA process.

MR. SCHLESINGER: So moved.

MR. BROWN: Second it.

MR. ARGENIO: Motion has been made and seconded. Roll call.

ROLL CALL

MR. SCHLESINGER	AYE
MR. BROWN	AYE
MR. GALLAGHER	AYE
MR. ARGENIO	AYE

MR. ARGENIO: Everything's been addressed here. I think we arrived at a good common group with the live music and DJ being eliminated. Mrs. Sabini has been advised about if the noise thing becomes chronic we're going to make a request of her. You okay with that?

MS. SABINI: Yes, I am.

MR. ARGENIO: And I use the term chronic, I don't mean one call, I mean chronic.

MS. SABINI: Seven years I've been there, I got one call on one St. Patrick's Day on my voicemail, that's the only complaint.

MR. CORDISCO: Mr. Chairman, my recommendation is that the restrictions that the board has discussed should be placed as notes on the plan so that anyone looking to enforce them years from now.

MR. ARGENIO: Marshall, you okay with that?

MR. ROSENBLUM: Sure.

MR. ARGENIO: Anybody want to take this over the wire?

MR. GALLAGHER: I'd like to make a motion for final approval for Irish Eyes site plan amended.

MR. SCHLESINGER: Second it.

MR. ARGENIO: Motion has been made and seconded that the Town of New Windsor Planning Board offer final approval for Irish Eyes subject to Mark's comments and the notes be put on the plan and the things we discussed here tonight, the live music and the DJ thing and Jane has acknowledged that if we have a chronic issue, we're going to come and say hi. Roll call.

ROLL CALL

MR. SCHLESINGER      AYE

MR. BROWN            AYE

MR. GALLAGHER        AYE

MR. ARGENIO          AYE

MR. ARGENIO: Thank you, Mrs. Sabini, for coming in, thank you, Marshall, for doing such a fine, fine job and for bringing your pointer in this evening.

REGULAR\_ITEMS:

AMBER\_GROVE\_SENIOR\_SITE\_PLAN\_(10-070)

MR. ARGENIO: Regular items next on tonight's agenda is Amber Grove Senior Totally Affordable site plan. The application proposes 84 totally affordable senior citizen housing units on the five plus acre parcel. The plan was previously reviewed at the 24 March planning board meeting at which the applicant was given guidance on a litany of issues and the intent was to get them to the point where this evening we can send them to the Town Board with a recommendation so that the Town Board can act. So what's your name again?

MR. EWALD: Travis Ewald.

MR. ARGENIO: Travis is here from Pietrzak & Pfau and I see Mr. Jonah Mandelbaum, he's the owner. So guys, would you tell us where we're at and where we're going, where we're coming from, et cetera?

MR. EWALD: As discussed at the last planning board meeting in March, we developed a highly detailed plan, storm water pollution prevention plan and we also brought with us an architectural rendering of the plans.

MR. ARGENIO: Excuse me, did you look at the SWPPP, did you look at that yesterday?

MR. SZAROWSKI: Some time ago, yeah.

MR. EWALD: I believe there was a couple minor comments to it. When I spoke to Mr. Edsall, he didn't seem to think that they were anything that would be substantial. Also it's discussed at the previous meeting we have flushed out the landscaping plan to leave the area between New York State Route 94 and Forge Hill almost entirely undisturbed. There's one

small section where we're installing the water service and fire protection piping that will have maybe a 20 foot swath of clearing. We're also proposing to plant a row of pine trees right along the property line along Route 94 to help facilitate blocking any view of the project from 94. Behind the undisturbed tree line we're going to propose a triple row of pine trees and then also along Forge Hill Road we're showing the triple row of pine trees.

MR. ARGENIO: Travis, what's this line here?

MR. MANDELBAUM: That's your favorite stone wall.

MR. ARGENIO: So you're trying to preserve that?

MR. MANDELBAUM: You asked me about the stone wall only goes to this corner, there's nothing here, at the last meeting you requested if we were willing to continue to do the wall around and I said yes and you actually told me before you say yes, be careful, it's very expensive. And you're right, I almost fell down when I got the price but it's on the plan and we're going to do that, we're going to fix the wall along this road which is falling down and continue it all the way around the property passed the building.

MR. ARGENIO: Fantastic.

MR. EWALD: We have also had our architect prepare a rendering of the proposed building.

MR. ARGENIO: Did you ever notice nobody ever does a rendering and it's raining? It's always blue sky with the puffy clouds. Ever notice that?

MR. EWALD: Perfect day in spring.

MR. ARGENIO: Perfect day in spring. What's the temperature on that picture?



MR. MANDELBAUM: Seventy-six and sunny.

MR. ARGENIO: With a nice, light breeze.

MR. MANDELBAUM: I had one done for Port Jervis and he puts Jaguars and Mercedes and I said this is affordable housing?

MR. ARGENIO: Go ahead.

MR. EWALD: And it's my understanding that the project was referred to Orange County Planning and we have received comments back from them.

MR. ARGENIO: We can do that, right?

MR. CORDISCO: At this point, you circulate it for lead agency.

MR. ARGENIO: We should wait to hear back or send it to the Town Board first?

MR. CORDISCO: We have to send it to the Town Board before we take any official action. The way lead agency works is that when you circulate for lead agency, if no other agency that's involved requests that they actually be lead agency within the 30 days time, this board actually then becomes automatically lead agency. So there's no further action to take at this point on lead agency. The next step on SEQRA is to consider whether or not to grant a negative declaration or positive declaration but that's--

MR. ARGENIO: We're early.

MR. CORDISCO: That's right. The way the Town Code is set up is that the referral needs to be made to the Town Board to get Town Board's informal input as to the suitability of this site for senior housing.

MR. ARGENIO: Go ahead, Travis.

MR. EWALD: Basically puts us why we're here at this meeting is to discuss whether the plans are at a substantial state, if you're comfortable referring us to the Town Board for special use permit.

MR. ARGENIO: I'm sorry, go ahead.

MR. EWALD: As I was saying, the focus of why we're here tonight is to discuss with the board if we're at a point where you feel comfortable referring us to the Town Board for a special use permit.

MR. ARGENIO: Tell me about the pavilion.

MR. EWALD: We're proposing a 20 x 30 pavilion located in the island area, the grass landscaped island area in the center of the parking lot to be used as outdoor recreation for the seniors, provide them with shade on a sunny day, a place to get outside, enjoy nice weather.

MR. MANDELBAUM: I'll give you background, how that came about there's the seniors' little pavilion in Montgomery that it snowballed and they asked me to do one in Pine Bush and I did, I found one in Pine Bush and one in Warwick and seems people like it. They barbecue there, they had 120 people barbecue two weekends ago.

MR. ARGENIO: Where you going to put them if you have that same barbecue here?

MR. MANDELBAUM: Right underneath we have chairs, tables and chairs right in the pavilion, it's open like by the firehouse, much nicer than what they have at this firehouse, I promise you.

MR. ARGENIO: Would you make a note and get it to Mark, I want to make sure that the widths of the sidewalk given the overhang of the bumper of the cars I don't remember what number we used there.

MR. MANDELBAUM: The pavilion itself we can move that.

MR. ARGENIO: No, Jonah, when the cars pull in they pull in to the sidewalk and their nose hangs over the sidewalk, I don't remember if the sidewalk needs to be 6 or 5 foot or 7 foot, I don't remember.

MR. EWALD: We're providing a five foot sidewalk I believe ADA.

MR. ARGENIO: It says six.

MR. MANDELBAUM: It does say six but we'll change it to five.

MR. ARGENIO: The dumpster?

MR. ARGENIO: Do you think I'm guessing here it's our first rodeo all of us up here? You need to revisit the dumpster enclosure because it's wrong.

MR. EWALD: In what manner?

MR. ARGENIO: Take a look at it and then re-ask me the question.

MR. EWALD: Because it's located the long axis is 90 degrees to the parking?

MR. ARGENIO: Why would you ask the question you already know the answer to?

MR. EWALD: I believe, I'm not certain, this is the one on Senior Court situated like that.

MR. MANDELBAUM: We had to.

MR. ARGENIO: Doesn't matter, take a look, it's not correct, you need to do better than that, it's not right and I'm sure Jonah wouldn't want it like that either. I know the quality of what he builds, they meet parking, do you know, I believe they meet parking. Neil or Howard or Danny, we're looking to bounce them to the Town Board, I think they're complete enough to do that. We're going to see it again. Do you guys have any questions?

MR. BROWN: Is there any possibility on the dumpster area there's four dumpsters in one enclosure, correct?

MR. MANDELBAUM: Yes.

MR. BROWN: Any possibility since it's a senior complex that two can be in one area and two in another?

MR. MANDELBAUM: Well, we base it on all our locations, we try to keep them in one spot, no matter which way you go, it's the same distance.

MR. ARGENIO: Let me ask a question. Do the seniors take their garbage out to the dumpster or is there a maintenance guy?

MR. MANDELBAUM: We have a maintenance guy on site.

MR. ARGENIO: Does he do that function?

MR. MANDELBAUM: If the senior asks them to, a lot don't want them to, it's their exercise when somebody comes in the hallway, I see somebody with garbage, no, no leave me alone, that's my exercise for the day. Obviously on a snowy day we have a little storage area room if you want to leave it. We generally if they want to we tell them if you can't go out somebody in a wheelchair, one of, that's one of our services.

MR. ARGENIO: Are you okay with that?

MR. BROWN: Yes.

MR. ARGENIO: Howard's thinking about when he moves in he wants to make sure.

MR. BROWN: That's right, getting close.

MR. MANDELBAUM: Believe it or not, we have a waiting list without the building of over 100 people already.

MR. ARGENIO: Is the other one full?

MR. MANDELBAUM: We have a waiting list already.

MR. ARGENIO: Dominic, do we need to make a motion?

MR. CORDISCO: You should make a motion to refer it to the Town Board.

MR. ARGENIO: Do we need to have a motion and decision that we feel it's appropriate or do we need to do that?

MR. CORDISCO: You can, you certainly, it would be appropriate to add any additional comments that the board would like the Town Board to consider.

MR. ARGENIO: He did what we asked, I mean he did what we asked. Let me ask you this, Jonah or Travis, is it conceivable that in order to do the best that we can for our neighbors across the street can the building be pulled back a little bit away from 94? Is that possible? Same package entirely just move the, slide the building back a little bit and get it away from the PIP property across the street. Is that possible?

MR. MANDELBAUM: How far would you like us to move it?

MR. ARGENIO: I didn't say, just asking that it could be done. Pull it off, I'm sorry, Neil, pull it away from Forge Hill Road a little bit if it's doable.

MR. EWALD: We can move it back slightly, there's a concern back they're here that some of the, I believe that some of the trees also some of the grading I used this area slopes in this direction, I need some area to create a swale behind the building.

MR. ARGENIO: Okay, well, we certainly don't want to get tangled up in that, Travis, would you look at that if that could be done and if the number is five feet that would be great, if it's 15 feet that would be fine too. You guys agree with that, makes sense to you guys?

MR. MANDELBAUM: Whatever we can.

MR. ARGENIO: Okay, if anybody sees fit, I will and Dominic if I word this incorrect please step in, I'll accept a motion that we refer this to the Town Board.

MR. SCHLESINGER: Make a motion that we refer.

MR. GALLAGHER: Second it.

MR. ARGENIO: Motion's been made and seconded that we refer Amber Grove to the Town Board to review as a possible location for a senior project. I'll have a roll call.

ROLL CALL

MR. SCHLESINGER	AYE
MR. BROWN	AYE
MR. GALLAGHER	AYE
MR. ARGENIO	AYE

MR. ARGENIO: Am I missing anything?

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MR. CORDISCO: That's all you can do at this point.

MR. ARGENIO: You guys have your direction, thank you for coming in, we'll see you.

CONTINENTAL\_ORGANICS\_SITE\_PLAN\_(10--16)

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MR. ARGENIO: Continental Organics.

MR. ENDRES: Good evening, ladies and gentlemen, thank you for your time. My name is Tom Endres, this is Michael Finnegan, my partner who made it safely back from Greece. Based on our last meeting--

MR. ARGENIO: Can I just interrupt you, sir, for just a second just so I can give the members a heads up? Does anybody have comments on this? We discussed this at the last meeting and basically, the reason they're here tonight is they prepared their SWPPP. There's a question whether they needed to do a SWPPP or not and counsel has given us guidance on that and they do indeed need to do a SWPPP. They have done it, there really are not a lot of site plan issues associated with this because it's in an agricultural district which has its own set of nuances associated with it. The big thing was that they needed to prepare the SWPPP which they have in fact crafted, they have in fact submitted it to MH&E and John Szarowski, the wetlands geek, has determined that the SWPPP is in a substantial state of fitness. Is that right, John?

MR. SZAROWSKI: Substantial compliance, it's in compliance, substantially in compliance.

MR. ARGENIO: The reason I asked them to come tonight was just to update us on what they're doing and where they have come from.

MR. ENDRES: That's correct, Mr. Chairman, and based on our last meeting, the big issues were the SWPPP, the EAF, the perimeter road. As you can see, we have added it here, if you flip the chart, Travis, you'll also see we added the grading. There's your storm water runoff basin, we paved several of the spots for handicapped parking of the 15 to code and I think we have corrected



all the deficiencies from the last concept brief that we gave you.

MR. ARGENIO: Now you do have access at this point?

MR. ENDRES: The access road is right here coming off Mt. Airy Road which is right there, if I'm blocking anybody, please tell me so Mr. Airy Road you can see the north symbol and here's the access road right there.

MR. GALLAGHER: You moved that building away from the Belle's building compared to last time?

MR. ENDRES: That's correct.

MR. SCHLESINGER: They didn't move it, you replaced it.

MR. ARGENIO: They moved the building.

MR. ENDRES: We moved.

MR. GALLAGHER: It was right up on the Belle's.

MR. FINNEGAN: We observed the setback requirements I think it's 40 or 50 feet.

MR. ARGENIO: Were you here the last time they came in?

MR. SCHLESINGER: I was here the last time they were at the last meeting.

MR. ARGENIO: The building was right on top of the property line.

MR. SCHLESINGER: And they were supposed to--

MR. ARGENIO: Move it away so they're in conformance with zoning. Dominic?

MR. CORDISCO: Mr. Chairman?

MR. ARGENIO: Do you have any additional thoughts on this? I know we've talked about it quite a bit in the past.

MR. CORDISCO: Yes, we're working on this since the last meeting and we have been in discussions with the applicant and the applicant's representatives as to how to approach this, this is a rather unique operation, it is a farming operation and there's language in SEQRA that exempts farm maintenance operations including construction of new buildings from having to go through the SEQRA process. But given the unique nature of this application with the greenhouses that are proposed, my recommendation to the applicant was to be cautious and submit a long form EAF which they have done at this point. Those materials including the storm water plans and the revised plans that you have in front of you have been referred to the County Planning Department.

MR. ARGENIO: Which we have not heard back from.

MR. CORDISCO: Correct, in fact, these plans just came in.

MR. ENDRES: They went in Friday.

MR. CORDISCO: They came in on Friday so they went to the county on Friday, the county has 30 days and of course, they could respond sooner but they have not. So at this point, the board cannot take any action formally to approve or disapprove the plan.

MR. ARGENIO: That's the plans that went to the county on Friday, yes?

MR. CORDISCO: That's correct. The one thing that the board might want to consider tonight is that this is a site plan approval and as the board is certainly well

aware you have the ability to waive the public hearing if you find that it is in your interest to do so.

MR. ARGENIO: Yeah, we're kind of out in the middle of nowhere here. Where do you, where are you guys at with Pete Belle?

MR. ENDRES: I'll let my attorney speak to that.

MR. FINNEGAN: We've had some discussions, we've done an inspection, we've received a draft contract, we're in negotiations.

MR. ARGENIO: So you have a Contract of Sale?

MR. FINNEGAN: Whether it's going to go through or not is a function of the inspections and negotiations but it doesn't really affect this in any way, just be additive to what we have in terms of acreage available for farm use.

MR. ARGENIO: John Szarowski, do you have any knowledge, have you performed any reviews on the sanitary disposal area?

MR. SZAROWSKI: No.

MR. ARGENIO: I want to make a note please convey to Mr. Edsall that we want to make sure we look at that close and folks Continental Organics folks, it's our policy to see to it that those percs in that area are done in the presence of a representative of the town and Travis has that happened?

MR. EWALD: That has not.

MR. ARGENIO: Why hasn't it not? You're supplying us with perc data, you've been to the Planning Board 100 times, why would you do that without having the town rep there?

MR. EWALD: It was a function of time, we based it on a very conservative percolation assumed rate 45 minutes, the assumption being that we'd be able to provide percolation data that was at that rate or less.

MR. ARGENIO: That's nice that it's conservative but we don't know if it works or not. So John, can we make sure, drop a dime on Mark please and tell him we need to take a look at that because we certainly don't want to approve something that doesn't work and we certainly wouldn't want to create a double standard in our town, we try hard to apply the same standards to everybody so basically, guys, what we have here are a bunch of temporary greenhouses I assume without four foot deep foundations. Is that correct?

MR. FINNEGAN: That's correct.

MR. ARGENIO: So that's why they're temporary, we have a storm water pond which is part of the storm water pollution protection plan, we have done a Type I, it's Type I action, Dominic, what's the sunset on that and how does that shake out?

MR. CORDISCO: They have done a long form EAF I believe you know it's either an unlisted action or it's actually not subject to SEQRA at all, that was what I was getting at before is we decided to treat it conservatively and have them submit the long form EAF which they have done at this point but taking any action under SEQRA if you were to consider perhaps a negative dec would be premature at this point until we hear back from the county.

MR. FINNEGAN: If I might just add one thing, Mr. Chairman, insofar as we're all in a gray area here and with regard to SEQRA review and whether it's a Type 2 Action or not which the law specifically references that it is, we have had numerous conversations with

your town engineer and your counsel, we have shared briefs and we have shared case law and had lots of discussion about it but there's a larger issue with regard to the farming community in general so at the request of the town we did the SWPPP, we understand that there's some sensitive environmental issues, we did that, we submitted the long form EAF but in no way should that be construed as an agreement or an assertion by us that it is anything other than a Type 2 action. That's just for the record and really for other farm uses and other people maybe in this situation.

MR. ARGENIO: Your point is duly noted.

MR. FINNEGAN: Thank you, Mr. Chairman.

MR. ARGENIO: Guys, he left me out of that for whatever reason I was at those meetings and the big concern with the SWPPP was that we're near Brown's Pond and we really want to be diligent in that area. Are you an attorney?

MR. FINNEGAN: Yes, I am.

MR. ARGENIO: You are and counsel is correct but when we explained to him our concerns about the watershed in that area they were considerate of it and they said okay, while we recognize it's not required we'll do it because we understand.

MR. CORDISCO: I would just add that while you say that counsel is correct, I would say counsel's clearly stated their position and, you know, and as he first said this is a gray area and I think it's best just to leave it at that.

MR. ARGENIO: Let's do just that then Dominic and not have a, there's a term for that, we'll not have a contest in that area, suffice it to say that they have

done what we asked them to do which is what we asked them to do.

MR. CORDISCO: Correct.

MR. ARGENIO: Okay, we're in an AG area, Baxter Farm is out in the middle of nowhere, we heard from Henry Kroll a few weeks ago who I see in the audience, everybody knows Henry as member of our community. Anybody have any thoughts on the public hearing on this thing?

MR. GALLAGHER: I'd like to waive it.

MR. ARGENIO: I think you're probably right. What do you guys think?

MR. SCHLESINGER: Anybody live in the area?

MR. ARGENIO: Henry lives across the street.

MR. SCHLESINGER: Besides him it says Belle, Belle, Belle.

MR. ARGENIO: That's Belle's Catering.

MR. SCHLESINGER: They own all that property?

MR. ARGENIO: Have you been there? Nobody lives there, it's a catering hall.

MR. SCHLESINGER: I know nobody lives at the catering hall. Does anybody live in the vicinity?

MR. ARGENIO: Do they live in the catering hall?

MR. KROLL: No, it's empty.

MR. SCHLESINGER: How close other than you is the closest residents?

MR. KROLL: The Belle's.

MR. SCHLESINGER: Other than catering, the land that we're talking about has been vacant for the last several years?

MR. KROLL: Which land are you talking about?

MR. ARGENIO: Henry, stand up, you're whispering back there.

MR. KROLL: Which land are you talking about?

MR. SCHLESINGER: Where the catering hall is, the land that we're talking about has it been used?

MR. KROLL: Other than agricultural, no.

MR. SCHLESINGER: Hasn't been farmed or anything?

MR. KROLL: Yeah, it's a hay field.

MR. SCHLESINGER: It has been farmed?

MR. KROLL: Yes, it's an active farm.

MR. SCHLESINGER: That's what I wanted to know.

MR. CORDISCO: It's within the agricultural district.

MR. SCHLESINGER: Just so there are no surprises coming on, anybody that's living around there, that's all, it's not like it's been dead quiet for the last 20 years, all of a sudden now there's activity, there's always been activity there, right? Okay, I'm in favor of whatever the public, that's all, just want to get an understanding of what's going on.

MR. ARGENIO: I'm okay with it.

MR. BROWN: I agreed.

MR. GALLAGHER: Make a motion we waive the public hearing.

MR. SCHLESINGER: Second it.

MR. ARGENIO: Motion has been made and seconded that the Town of New Windsor Planning Board waive the public hearing for Continental Organics.

ROLL CALL

MR. SCHLESINGER	AYE
MR. BROWN	AYE
MR. GALLAGHER	AYE
MR. ARGENIO	AYE

MR. ARGENIO: What am I missing here?

MR. CORDISCO: That's all we can do at this point.

MR. ARGENIO: You guys have done what we asked you to do with the topos and the SWPPP, I understand it was important because and I'm glad you're being considerate of our issues because they're very real issues. What else can we do?

MR. ENDRES: We'd just like to thank the town, Nicole, the engineer's office.

MR. FINNEGAN: I thought he was pointing at me.

MR. ENDRES: I'd like to thank the town, Nicole, the engineering office, the attorney for helping us, guiding us through the areas, I think we agree, we're going to create 100 plus jobs, help a lot of vets, it's going to be a good darn thing for the Town of New Windsor.



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MR. ARGENIO: We're doing nothing for you that we wouldn't do for any other applicant. Thank you for coming in. Please get with Nicole and get squared away for the next meeting. If there's room there, we'll put you on that agenda. Thank you for coming in.

METROPCS\_SITE\_PLAN\_(10-12)

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MR. ARGENIO: MetroPCS special permit. Sir, come forward more.

MR. MORANDO: Anthony Morando from the law firm of Cuddy and Feder for the applicant.

MR. ARGENIO: Move over here. A show of hands in the audience who's here for this? One, two, three. Okay, that's great, as opposed to the people that wanted to speak last time, apparently maybe everybody doesn't care how it shakes out. But certainly a lot of people wanted to speak. Now if the members will indulge me and you need to, I need to speak for a if you moments because there's been a lot of activity on this. I have been to a lot of meetings and have made a lot of phone calls over the past four weeks about this and there's things that need to be put in the record and I'm going to take a few minutes and put them in the record. Guys, please listen to me, I'm going to try to be as, you know, I always try to be as brief as possible. I have a letter dated May 2, 2010 from a woman. Dear Sirs and I'm not going to read the whole thing, I'm going to, I'm not going to paraphrase but I'm going to read a little. I'd like to applaud your handling of the public hearing concerning at the MetroPCS cell tower at last night's planning board meeting and the one two weeks ago. You folks or you meaning me and the board handled yourselves with a great deal of dignity and professionalism, while some, her handwriting's tough to read, while some may not have been happy with the answers to their questions, none could complain that they were not given a fair chance to air their concerns. Again, congratulations on your handling of last night's cell tower hearing. You guys did an excellent job in a very tough situation. Thank you, ma'am, for that. For the record. And for anybody who's here, following is the number for the FCC in Washington D.C. 1- 800-225-5322. Those are the people

that govern cell tower emissions, et cetera, et cetera, et cetera which apparently are causing people are claiming are causing untold problems. There's the number, it's part of the permanent record and people can call if they want. Next, The Sentinel's May 28, 2010 I'll read from it. Miranda Koss who lives 2,000 feet from the cell tower presented the board with the petition of 500 signatures from residents opposed to the addition to the tower. That did not happen. What happened at that meeting is I, we were presented with a petition with a whole bunch of signatures, I don't know if it's 500 and it was accidentally I'm going to assume accidentally represented that it was for that application. Certainly I wouldn't purport that Mrs. Shapiro would misrepresent anything, make sure you get that correct, Franny, I would not purport that she would misrepresent anything. But the verbiage that she used led everybody to believe, myself included and The Sentinel that the petition she handed me that evening was against this cell tower. That is not the case. The petition she handed me was against the Vails Gate cell tower on the Vails Gate Firehouse. The record should be clear. Don't laugh, Leo. Okay, couple other petitions came through, one with 13 signatures, one with 33 signatures, all essentially saying we don't like cell towers. Another one came through and there's a header on the top of every petition that says this is what the petition is for, read it and please sign it. On this one petition it says non-conforming, the existing tower is and I'm quoting is deemed to be a non-conforming cell tower because of its close proximity to residential communities. That is also untrue, entirely not true, the reason it's non-conforming is cause it pre-exists the zoning for cell towers in that area or anywhere else in the town. Sir, do cell towers emit radiation?

MR. MORANDO: No.

MR. ARGENIO: Okay, 12 foot extension to the cell tower

I'm reading from the top of the petition, a 12 foot extension to the cell tower will increase concerns about the possible effects of radiation.

MR. MORANDO: If I can just I'm not an RF expert if we're talking about RF emissions.

MR. ARGENIO: It doesn't say that, it says radiation, that's done. Nicole, do you have any letters from a doctor supplied to you by any member of the public saying that they shake, vibrate or light up in any fashion when they drive passed the cell towers?

MS. JULIAN: No.

MR. ARGENIO: We requested two meetings ago that we be supplied that if it exists because it's certainly something that we as serious folks should be considering on behalf of the residents of the Town of New Windsor. All that said, I'm going to go to a memo that all of you have from Dominic that was crafted at my request. This should have gone to a vote at the last meeting, every engineering aspect of it has been resolved, addressed, remedied, rectified or anything else of that nature. However, there were a lot of points that were brought up at the last meeting, there was a lot of people from the public hearing and it's not our job to blow them off, it's our job to consider their comments which I think we have, we all have adequately done. I'm going to read from Dominic's letter a few sentences. His letter's part of the record, if anybody wants to read it, go read it on your own time, FOIL it, Nicole will give it to you. You can read it to your heart's content. I'm not going to paraphrase but I'm going to read sections. Under Section 704 of the Telecommunications Act, the Federal Government preempts state and/or local, preempts state or local regulations of the placement, construction and modification of the personal wireless service facilities. The Telecommunications Act expressly

preempts state and local regulations of radio frequency emissions associated with wireless telecommunications facilities as long as such facilities are meeting the standards set by the FCC. When considering such applications, the determination of whether a significant gap in wireless telecommunications coverage exists must be analyzed from the perspective of the provider, not from the perspective of the users of the service, blah, blah, blah, blah. Last sentence, therefore, the prevention of such an extension on the co-location of this telecommunications tower would effectively be an unlawful discrimination against the applicant by the town. Zoning authorities are prohibited from unreasonably discriminating among functionally equivalent service providers and in other words, you must allow for competitors to operate within the municipality on equal footing. If wireless service providers such as AT&T, MetroPCS, Sprint, Nextel, Verizon are already providing service within municipality, a zoning decision must allow for additional licensed competitors to operate in the municipality, otherwise, it would be deemed unlawful discrimination. My hair hurts. MetroPCS has demonstrated that their RF emissions are a fraction of one percent of the allowable emissions as determined by the FCC which is the governing authority. Therefore, the prevention of such an extension on the colocation of this telecommunications tower would effectively be an unlawful discrimination against the applicant by the town. Mark's comment, I'm aware of no outstanding issues with regard to this application. Does anybody on the board have any other comments? I'll accept a motion for final approval.

MR. SCHLESINGER: So moved.

MR. BROWN: Second it.

MR. CORDISCO: Mr. Chairman, it should be a negative dec first.

MR. ARGENIO: I'm sorry, I'll accept a motion we declare negative dec.

MR. GALLAGHER: So moved.

MR. SCHLESINGER: Second it.

MR. ARGENIO: Motion made and seconded. Roll call.

ROLL CALL

MR. SCHLESINGER	AYE
MR. BROWN	AYE
MR. GALLAGHER	AYE
MR. ARGENIO	AYE

MR. ARGENIO: Dominic, anything else?

MR. CORDISCO: No.

MR. ARGENIO: I'll accept a motion for final.

MR. SCHLESINGER: So moved.

MR. GALLAGHER: Second it.

MR. ARGENIO: Motion by Neil seconded by Danny. Roll call.

ROLL CALL

MR. SCHLESINGER	AYE
MR. BROWN	AYE
MR. GALLAGHER	AYE
MR. ARGENIO	AYE

MR. ARGENIO: Thank you, thank you, it is what it is, due diligence has been done and then some with this.

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MR. MORANDO: Thank you.

DISCUSSION

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MR. ARGENIO: What else, discussion item?

MS. GALLAGHER: It's the Ducktown issue.

MR. ARGENIO: Oh my goodness, this is so simple. Jen, go do this.

MS. GALLAGHER: The Ducktown Inn is proposing to put a shed attached to their building and a covered area over, do you see the pictures from where they come out of the building into where their supplies are and everything into that door, they just want to have a covered area so if it's snowing, raining they don't get wet when they bring stuff in there. We can handle it in my department, just wanted to bring it to you guys to make sure you didn't want site plan amendment or anything like that.

MR. ARGENIO: Anybody have a problem?

MR. GALLAGHER: No variances or anything needed?

MS. GALLAGHER: No, it doesn't go passed the existing building in any way, it's only an 8 x 14 shed.

MR. ARGENIO: Anybody have a problem with this? Jen, it's yours.

MS. GALLAGHER: Thank you.

MR. ARGENIO: I'll accept a motion to adjourn.

MR. GALLAGHER: So moved.

MR. BROWN: Second it.

ROLL CALL



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MR. SCHLESINGER	AYE
MR. BROWN	AYE
MR. GALLAGHER	AYE
MR. ARGENIO	AYE

Respectfully Submitted By:

Frances Roth  
Stenographer

